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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,406	09/15/2003	Deepak Ayyagari	8371-0162	5033
73496 7590 02/24/2010 Stolowitz Ford Cowger LLP/Sharp 621 SW Morrison St Suite 600 Portland, OR 97205				
EXAMINER				
WILSON, ROBERT W				
ART UNIT		PAPER NUMBER		
2475				
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02/24/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/663,406

Applicant(s)

Ayyagari, Deepak

Examiner

ROBERT W. WILSON

Art Unit

2475

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3.5-13, 16, 28 and 29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3.5-13, 16, 28 and 29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 3, 5-13, 16, & 28-29 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Referring to claims 3 & 5-12, claims 3 & 5-12 are directed to a method. In order to be statutory method must be performed by physical structure and the steps of the limitation must define a particular practical application. Claims 3 & 5-12 do not define a particular practical application and therefore is directed to non-statutory subject matter.

Referring to claim 13, claim 13 is directed to a method. In order to be statutory method must be performed by physical structure and the steps of the limitation must define a particular practical application. Claim 13 does not define a particular practical application and therefore is directed to non-statutory subject matter.

Referring to claims 16 & 28-29, claims 16 & 28-29 are directed to a method. In order to be statutory method must be performed by physical structure and the steps of the limitation must define a particular practical application. Claims 16 & 28-29 do not define a particular practical application and therefore is directed to non-statutory subject matter.

Claim Objections

3. Claims 3, 5-13, 16, & 28-29 are objected to because of the following informalities:

Referring to claims 3, 13, & 16; the examiner objects to the usage of "characterized by" because "characterized by" can be interpreted as a non-positive claim recitation. The examiner requests that the applicant either amend the claim to have positive claim limitation or argue on the record that "characterized by" is a positive claim recitation. Appropriate correction is required.

Response to Amendment

4. Applicant's arguments with respect to claims 3, 5-13, 16, & 28-29 have been considered but are moot in view of the new ground(s) of rejection.

In order to be totally responsive to applicants submission the following explanation has been provided.

The examiner thanks applicant for providing the RCE; however, the applicant method claims fail to define a particular practical application in the claim limitations and therefore pre-empt all practical uses and therefore must be rejected under 101. The examiner suggests that the applicant amend the independent claims to add a particular practical application which is enabled by applicant's specification.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT W. WILSON whose telephone number is (571)272-3075. The examiner can normally be reached on M-F (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dang Ton can be reached on 571/272-3171. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert W Wilson/
Primary Examiner, Art Unit 2475

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